

ORIGINAL
NEW APPLICATION



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Arizona Corporation Commission

FENNEMORE CRAIG
Jay L. Shapiro (No. 014650)
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3003 N. Central Ave., Suite 2600
Phoenix, Arizona 85012
Attorneys for Pine Water Company, Inc.

DOCKETED

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AZ CORP COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

W-03512A-09-0486

IN THE MATTER OF THE
CONDEMNATION OF PINE WATER
COMPANY

DOCKET NO.: W-03512A-09-_____

NOTICE OF CONDEMNATION

Pine Water Company ("PWCo") hereby gives notice to the Corporation Commission that all of the assets of PWCo, including its Certificate of Convenience and Necessity ("CC&N"), have been condemned and acquired by the Pine Strawberry Water Improvement District ("the District"). The Final Order of Condemnation was entered by the Yavapai Superior Court in Case No. P1300CV20090785 on October 6, 2009, and PWCo ceased doing business as a public service corporation at that time. A copy of the Final Order of Condemnation is attached as Exhibit A. As set forth in the attached September 30, 2009 letter from the District, PWCo has transferred all meter deposits and security deposits for customers to the District; and, the District has assumed all responsibility for meter deposits, security deposits and line extension agreements relating to customers of PWCo. A copy of the September 30, 2009 letter is attached as Exhibit B.

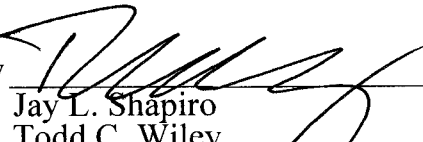
As a result of the condemnation, PWCo is not a public service corporation and it is not conducting any utility related business. For that reason, all open dockets involving PWCo before this Commission should be administratively closed, including the following dockets: W-03512A-09-0110; 03512A-07-0019; W-03512A-07-0100; W-03512A-07-0301; W-03512A-07-0362; W-03512A-06-0407; W-03512A-06-0613; W-03512A-06-0742; W-03512A-03-0104; W-03512A-03-0106; W-03512A-03-0279; W-03512A-01-

0481; W-03512A-00-0531; W-03512A-98-0078; W-03512A-98-0079.

RESPECTFULLY SUBMITTED this 9 day of October, 2009.

FENNEMORE CRAIG

By


Jay L. Shapiro
Todd C. Wiley
Attorney for Pine Water Company

ORIGINAL, and 15 copies of the foregoing
filed this 9th day of October, 2009 with:

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing hand-delivered
this 9th day of October, 2009 to:

Chairman Kristin Mayes
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Commissioner Gary Pierce
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Commissioner Paul Newman
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

1 Commissioner Sandra Kennedy
2 Arizona Corporation Commission
3 1200 W. Washington St.
4 Phoenix, AZ 85007

5 Commissioner Bob Stump
6 Arizona Corporation Commission
7 1200 W. Washington St.
8 Phoenix, AZ 85007

9 Steven M. Olea
10 Director, Utilities Division
11 Arizona Corporation Commission
12 1200 W. Washington Street
13 Phoenix, AZ 85007

14 Lyn Farmer
15 Chief Administrative Law Judge
16 Arizona Corporation Commission
17 1200 W. Washington Street
18 Phoenix, AZ 85007

19 Mr. Kevin Torrey, Esq.
20 Legal Division
21 Arizona Corporation Commission
22 1200 West Washington Street
23 Phoenix, Arizona 85007

24 **COPY** of the foregoing mailed
25 this 9th day of October, 2009 to:

26 John G. Gliege
Gliege Law Offices, PLLC
P.O. Box 1388
Flagstaff, AZ 86002-1388

David W. Davis
Turley, Swan & Childers, P.C.
3101 N. Central Avenue, Suite 1300
Phoenix, AZ 85012

1 Robert M. Cassaro
2 P.O. Box 1522
3 Pine, AZ 85544

4 Barbara Hall
5 P.O. Box 2198
6 Pine, AZ 85544

7 By: Mary L. House
8 2242491.1

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EXHIBIT

A

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9 Attorneys for Defendants
10 Pine Water Co., Inc.; Strawberry Water Co.,
11 Inc.; Brooke Utilities, Inc.

12 SUPERIOR COURT OF ARIZONA
13 YAVAPAI COUNTY

14 PINE STRAWBERRY WATER
15 IMPROVEMENT DISTRICT, a Tax
16 Levying Public Improvement District,

17 Plaintiff,

18 v.

19 PINE WATER CO., INC., an Arizona
20 Corporation; STRAWBERRY WATER
21 CO., INC., an Arizona Corporation;
22 BROOKE UTILITIES, INC., an
23 Arizona Corporation; COUNTY OF
24 GILA, a political subdivision of the
25 State of Arizona; JOHN DOES 1
26 through 10; and BLACK AND WHITE
PARTNERSHIPS 1 through 10,

Defendants.

No. P1300CV20090785

FINAL ORDER OF CONDEMNATION

(Assigned to the Honorable David L. Mackey)

It appearing to the Court that the Final Judgment in Condemnation in the above-entitled action has been fully paid and satisfied;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that sole use, possession and ownership of all of the following be vested in Plaintiff Pine Strawberry Water Improvement District: all real property and any fixtures appurtenant thereto of Pine

8 FILED A
O'Clock M
OCT 07 2009

JEANNE H. CATE
BY ~~SHERITA J. CATE~~ Clerk
Deputy

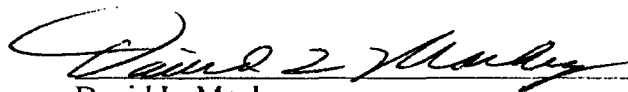
OCT 07 2009

() Dispo Ctr
() Other
() Arbitr
Def/Att: Fennemore
TOTAL
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1 Water Company, Inc. ("PWCO"), Strawberry Water Company, Inc. ("SWCO"), and
2 Brooke Utilities, Inc. ("BUI") now located within the boundaries of the Certificates of
3 Convenience and Necessity ("CC&Ns") of PWCO and SWCO as shown on the map
4 attached hereto as Exhibit A, including all fee interests, leasehold interests, easements,
5 licenses, permits, franchises, U.S. Forest Service permits, Arizona Department of
6 Transportation encroachment permits, occupancy agreements or other agreements
7 benefiting or used by PWCO and SWCO, including any interests in real property
8 described in Exhibit B attached hereto; all transferable water rights of PWCO and SWCO;
9 any rights to surface water from any source within Pine and Strawberry, Arizona; all of
10 the plants, substations and water distribution systems and all easements, pumps, wells,
11 waterlines, meters, water storage tanks, electrical panels and services and other real
12 property used or useful in the provision of domestic water service to customers located
13 within the CC&Ns of PWCO and SWCO; all rights and duties of PWCO, BUI and SWCO
14 under any contracts attached in Exhibit C attached hereto; intangible rights of PWCO,
15 BUI and SWCO and all other real property or fixtures thereto of PWCO and SWCO used
16 and useful in providing water utility services to the public within and without the area
17 described in the PWCO and SWCO CC&Ns issued by the Arizona Corporation
18 Commission as shown on the map attached hereto as Exhibit A; all rights to any and all
19 property known as the Project Magnolia, the pipeline connecting the PWCO and SWCO
20 water systems, including but not limited to easements, permits and licenses and other
21 agreements for the location of physical facilities, the physical facilities themselves,
22 including pumps, pipelines, valves, and all other appurtenant facilities; and all other assets
23 used and useful to provide domestic water service to each and every customer presently
24 being served or capable of being served by PWCO and SWCO within their respective
25 CC&Ns (collectively, the "Used and Useful Assets") and any going concern value of the
26 business ("Going Concern Value") of PWCO and SWCO.

1 Notwithstanding the foregoing, the Used and Useful Assets do not include: (1) the
2 Central Arizona Project ("CAP") allocation presently held by PWCO which shall be
3 transferred back to Central Arizona Water Conservation District ("CAWCD") in
4 accordance with its contract (with PWCO retaining all rights to its Relinquishment
5 Accounts established and maintained by the CAWCD for the PWCO and PSWID
6 agreeing to cooperate in good faith to assist PWCO in retaining such Relinquishment
7 Accounts); (2) any claims or judgments held by PWCO, SWCO or BUI relating to or
8 affecting PWCO's, SWCO's or BUI's relationship with any third parties, including, but
9 not limited to, those held by SWCO in the matter of Strawberry Water Company v.
10 Paulsen, Maricopa County Superior Court No. CV2001-005988; (3) any real property
11 outside of the CC&Ns of Pine Water Company and Strawberry Water Company held by
12 BUI; and (4) any moveable personal property owned by BUI (including, as examples, but
13 not limited to, tools, inventory, vehicles or other equipment, computers or other office
14 equipment, and any other similar types of personal property). It is the specific intent of
15 PSWID, PWCO, SWCO and BUI that the Used and Useful Assets are the utility assets of
16 PWCO, SWCO in the ground or located on real property in Pine and Strawberry, Arizona,
17 as such real property is specifically described herein, and all other property of PWCO,
18 SWCO specifically described herein within the boundaries of the CC&Ns of PWCO or
19 SWCO.

20 DONE IN OPEN COURT this 6th day of October, 2009.

21
22 
23 David L. Mackey
24 Judge of the Superior Court

25 PHX/2221613.1
26

EXHIBIT B

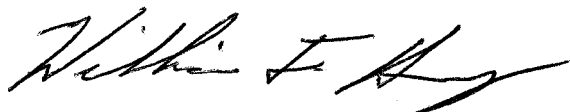
September 30, 2009

Dear Mr. Hardcastle:

This letter is provided on behalf of the Pine Strawberry Water Improvement District ("PSWID") relating to PSWID's acquisition and condemnation of Pine Water Company ("PWCo") and Strawberry Water Company ("SWCo"). In accordance with the Final Judgment of Condemnation entered in Yavapai County Superior Court case no. 2009-0785 on September 25, 2009, PWCo and SWCo have transferred all meter deposits and security deposits for customers to PSWID. By this letter, PSWID acknowledges receipt of \$70,978.61 for such meter deposits and security deposits for customers of PWCo and SWCo.

This letter further warrants and acknowledges that PSWID has assumed all responsibility for meter deposits, security deposits and line extension agreements relating to customers of PWCo and SWCo.

Signed



William F. Haney, P.E.
Chairman, Pine Strawberry Water Improvement District